IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 281 OF 2005

Shreeram Ramkishor Pal. ... Appellant.

Versus.

The State of Maharashtra & ors. ... Respondents.

Shri M.R.Yadav for the Appellant.

Mrs.Geeta Mulekar, A.G.P. for Respondent No.1.

Ms.Geeta Joglekar for the Respondent No.2.

CORAM : ABHAY S. OKA, J.

DATED : 26th April, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. The original Plaintiff has taken exception to the Judgment and Order dated 1st February 2005 passed by the trial Court by which ad-interim relief has been refused. The learned trial Judge has recorded a finding that the property subject matter of the suit as described in paragraph 1 of the plaint is situated at CTS No.108 of village Dindoshi locally known as Behind Shyam Mandir, Opp: MHADA Complex, Dindoshi, General Arunkumar Vaidya Marg, Malad (East), Mumbai 400 097 and all the documents which are placed on record of the suit by the Appellant are in respect of a property which is located at Goregaon (East). The learned trial Judge has therefore, declined to grant ad-interim relief. A perusal of the documents which are annexed to the plaint shows that the learned trial Judge was right in taking a prima-facie

view which he has taken. The learned Counsel appearing for the Appellant has tendered some documents in this Appeal which are admittedly not produced in the trial Court and the said documents are not referred to and relied upon in the plaint. Hence the said documents cannot be considered. If the Appellant has any other evidence available it is for him to take out appropriate proceedings.

2. Subject to the observation made above, the Appeal from order is dismissed with no order as to costs.

3. Pending Notice of Motion will be decided by the learned trial Judge on its own merits without being influenced by the prima-facie findings recorded in the impugned Judgment and order.

Judge.